

Remarks

1. Notice of Non-Compliant Amendment Improperly Issued

On February 27, 2009, Applicants filed an After Final Response to the Final Office Action mailed January 6, 2009. The Final Office Action was responsive to claim amendments filed by Applicants on December 29, 2008. In an Advisory Action mailed March 18, 2009, the Examiner indicated that the amendments included in the After Final Response would not be entered. Following receipt of the Advisory Action, Applicants filed a Request for Continued Examination (RCE), including new claim amendments, on April 30, 2009. The new claim amendments in the RCE were made with respect to the amendments in Applicants' After Final Response filed on February 27, 2009. That is, the new claim amendments in the RCE response were made with respect to the amended claims of the After Final Response, as if the claim amendments of the After Final Response *had* been entered. In response to the new amendments filed with the RCE on April 30, 2009, the Office mailed the present Notice of Non-Compliant Amendment on June 15, 2009.

In the Notice of Non-Compliant Amendment, the Examiner indicated that because the amendments in the After Final Response filed on February 27, 2009 had not been entered, the new amendments in the RCE filed on April 30, 2009 should have been made with respect to the amendments filed on December 29, 2008. Applicants respectfully submit that in accordance with M.P.E.P. § 706.07(h) III D, the Notice of Non-Compliant Amendment was improperly issued. In particular, it would have been proper for the Office to enter both the amendments of the After Final Response and the new amendments of the RCE in the order in which the amendments had been filed (and received by the Office).

2. Summary of Telephone Interview with the Examiner

On June 29, 2009, Applicants' undersigned representative held a telephone interview with the Examiner to discuss the Notice of Non-Compliant Amendment and to determine how to appropriately respond. Upon review of M.P.E.P. § 706.07(h) III D, the Examiner agreed that the Notice had been improperly issued. Since it would have been proper for the Office to enter both the amendments of the After Final Response and the new amendments of the RCE in the order in which the amendments had been filed, the Examiner requested that Applicants submit a Supplemental Amendment that would accomplish this. Specifically, the Examiner suggested that the Supplemental Amendment should include the amendments of the RCE as filed on April 30, 2009, but with any editing markups removed; i.e., underlining removed and text with strike-through removed. The Examiner also suggested that the status of all claims that had been listed as "Currently amended" in the RCE amendments be listed as "Previously presented" in the Supplemental Amendment.

3. Response to Notice of Non-Compliant Amendment

In view of the above discussion and the Examiner's request, Applicants submit herewith a Supplemental Amendment in accordance with the Examiner's suggested format. Applicants note that the Supplemental Amendment includes only the claims as filed with the RCE on April 30, 2009 (with editing markups removed as described above). Applicants Remarks made in the RCE still apply to the present Supplemental Amendment, and are not repeated herein.

4. Conclusion

Applicants submit that the application is in good and proper form for allowance and therefore respectfully request favorable reconsideration. If, in the opinion of the Examiner, a

telephone conference would expedite the prosecution of this application, the Examiner is invited to call the undersigned at 312-913-3353.

Respectfully submitted,

**McDonnell Boehnen
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